

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RUBY J. BERRY,

Case No. 1:09-cv-411

Plaintiff,

Judge Timothy S. Black

vs.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

**ORDER AWARDING ATTORNEY'S FEES TO PLAINTIFF
UNDER 28 U.S.C. § 2412**

This Social Security disability benefits appeal is before the Court on the parties' agreed petition to award EAJA fees. (Doc. 19). The parties stipulate to an award in the amount of \$6,500.00 for attorney fees and costs in the amount of \$500.00, authorized under 28 U.S.C. §2412(d). Upon a *de novo* review, the Court finds that Plaintiff is a "prevailing party" as defined; that this civil action was brought against the United States; to review agency action by the Social Security Administration; in a court with proper subject matter jurisdiction; that the Commissioner's position during this litigation was not "substantially justified;" and that no "special circumstances" exist to bar a fees award. *See* 42 U.S.C. § 405(g). Moreover, the hourly fee and the time expended are reasonable. Accordingly, the Court hereby ORDERS that an award of \$6,500.00 for attorney fees and \$500.00 in costs is hereby GRANTED to Plaintiff.¹

¹ Plaintiff's motion for attorney fees (Doc. 18) is DENIED as MOOT.

This award satisfies Plaintiff's claims for fees, expenses, and costs under 28 U.S.C. § 2412.²

IT IS SO ORDERED.

Date: 6/12/12

Timothy S. Black
Timothy S. Black
United States District Judge

² Any fees paid belong to Plaintiff and not his attorney and can be offset to satisfy pre-existing debt that the litigant owes the United States. *Astrue v. Ratliff*, 130 S. Ct. 2521 (2010). However, if counsel for the parties can verify that Plaintiff does not owe any pre-existing debt subject to offset, the Defendant agrees to direct the award to Plaintiff's attorney pursuant to the EAJA assignment which was signed by Plaintiff and counsel. (Doc. 19 at 1).